

Agenda

Item #5

Proposed Outline for the Guide to Maine Ethics Commission Procedures

Role and Responsibilities of the Commission

- Financial reporting by candidates, PACs, and party committees
- Maine Clean Election Act program
- Lobbyist disclosure
- Legislative ethics

Matters Outside the Commission's Jurisdiction

- Ethics of executive branch or municipal employees
- Regulation of political speech
- Code of Fair Campaign Practices
- Conduct of Legislators other than conflicts of interest and prohibited activities
- Placement of political signs
- Voting procedures

Organization of the Commission

- Commissioners
- Commission Chair
- Staff
- Counsel

Qualifications of Commissioners and Prohibited Activities

- Qualifications
- Prohibited activities
- Requests for disqualification

Preparations for Commission Meetings

- Scheduling of meetings
- Setting of agenda
- Notice to interested parties
- Preparation of packet of written materials
- Deadlines for submission of materials
- Last minute submissions discouraged
- Requests to postpone or reschedule
- Resolving procedural questions or issues of jurisdiction

Communications by or with Commissioners

- Public proceedings requirements
- Communications with chair or another member
- Communications with staff
- Ex parte communications
- Communications with press

Meeting Procedures

- Telephone meetings
- Changes to agenda
- Quorum
- Recusal of Commission members
- Order of presentations
 - Introduction by staff
 - Comments by complainant (if any)
 - Comments by respondent(s)
 - Questions by Commissioners
 - Public comment (if requested by Commissioners)
 - Staff comments or recommendation (if requested by Commissioners)
 - Discussion
 - Vote
- Unsworn testimony
- Motions/Robert's Rules of Order
- Executive sessions
- Audio recordings
- Minutes

Hearing Procedures

- Applicability of the Maine Administrative Procedures Act
- Requests by Commission members, staff, or other parties for hearings
- When hearings are required
- Criteria for holding hearings when discretionary
- Notice to interested persons
- Right of respondent to present evidence and argument
- Opportunities of complainants and respondents to call and examine witnesses
- Evidence
 - Rules of evidence
 - Witnesses
- Presiding officers
- Separation of functions
 - Executive Director
 - Commission Counsel
- Decision
- Record

Public Records

Freedom of Access Act
Exception for legislative ethics matters

Investigations

Role of staff
Role of complainant
Routine issues regarding financial reporting
Audits of Maine Clean Election Act candidates
Subpoena power
 Authorization by Commission
 Signature by Chair
 Staff depositions

Enforcement Actions by Commission

Complaints by third-parties
Actions initiated by staff
Requests for waivers of late-filing penalties
Notice to respondents and opportunity to be heard
Assessment of penalties
Deadline for payment of penalties
Referral to Attorney General for Collection

Reconsideration of Commission Decisions and Appeals

Requests for reconsideration
Motions by commissioners
Standard for reconsideration
Appeal to Superior Court

Rule-makings and Other Policy Development

Development of draft changes to rules
Petition for rule-making
Opportunities to comment on draft rules
Adoption of rule changes
Advisory opinions and other guidance

Recommendations and Reports to Legislature

Reporting obligations

Commission's duty to make recommendations

Post-election surveys

Recommendations initiated by staff and Commission members

Requests by outside parties